

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

HERMAN LEE KINDRED, #0671207,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:20-cv-652-JDK-JDL
	§	
TDCJ DIRECTOR, et al.,	§	
	§	
Defendants.	§	
	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Herman Lee Kindred, a prisoner within the Texas Department of Criminal Justice, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge, the Honorable John D. Love, for findings of fact, conclusions of law, and recommendations for disposition.

On December 29, 2020, Judge Love issued a Report and Recommendation in this case. Docket No. 3. In that Report, Judge Love found that Plaintiff accumulated at least three strikes prior to filing this lawsuit pursuant to 28 U.S.C. § 1915(g). Accordingly, the Report recommended that Plaintiff's motion to proceed *in forma pauperis* be denied and that the case be dismissed, with prejudice for the purpose of proceeding *in forma pauperis*. Judge Love further recommended that the case should proceed if Plaintiff paid the full filing fee within fifteen days of the dismissal order.


Where a party timely objects to the Report and Recommendation, the Court

reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his February 1, 2021 objections, Plaintiff states that he paid the \$402 filing fee on or about January 4, 2021. Docket No. 7. However, a review of the docket in this case and case numbers 6:20-cv-540, and 6:21-cv-11 does not reflect that a filing fee has been received in any of these cases.

Having reviewed Plaintiff's objections de novo, the Court concludes that the objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 3) as the findings of this Court. The Court **DISMISSES** Plaintiff's civil rights lawsuit, with prejudice for purposes of proceeding *in forma pauperis* under 28 U.S.C. § 1915(g), but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Plaintiff may resume this lawsuit by paying the full \$400 filing fee within fifteen days of this Order.

So **ORDERED** and **SIGNED** this **5th** day of **February, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE